

REMARKS

This responds to the Final Office Action dated November 10, 2008.

Claims 44 to 52 are amended, claims 53-56 are canceled, and no new claims are added; as a result, claims 1-52 are now pending in this application.

§101 Rejection of the Claims

Claims 44 - 52 were rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. Applicants have amended method claims 44 – 52 to tie the claims with an apparatus (a data modification device). In view of this amendment, Applicants respectfully submit that claims 44 – 52 are now compliant with 35 U.S.C. § 101 such that the rejection under 35 U.S.C. § 101 should be withdrawn.

§102 and §103 Rejections of the Claims

Claims 1, 2, 14, 17-19, 22, 23, 25, 27-33 and 37-50 were rejected under 35 U.S.C. § 102(e) for anticipation by Del Sesto et al. (U.S. Patent Application Publication No. 2007/0130581 A1, hereinafter referred to as the Del Sesto reference). Claims 5-7, 15, 16, 20, 21, 24 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Del Sesto. Claims 3, 30, 33 - 35 and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Del Sesto, et al. (U.S. Patent Application Publication No. 2007/0130581 A1) in view of Picco, et al. (U.S. Patent No. 6,029,045, hereinafter referred to as the Picco reference). Claims 4, 8-13, 36, 51 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Del Sesto, et al. (U.S. Patent Application Publication No. 2007/0130581 A1) in view of Kalluri (U.S. Patent No. 5,937,331, hereinafter referred to as the Kalluri reference). Applicants respectfully traverse the base rejection of the claims using the Del Sesto reference. Applicants respectfully submit that the presently claimed system is patentable over the Del Sesto reference.

The Del Sesto reference discloses interactive content delivery methods and apparatus. The system of the Del Sesto reference is primary directed toward preventing encoded meta-data from being corrupted by legacy broadcasting equipment using a by-pass system. The by-pass system extracts interactive content up receipt, allows video information to then pass through

legacy equipment, and then re-encodes the interactive content back into the video before retransmission.

The system of the Del Sesto reference does include a limited system eliminating encoded interactive content or replacing encoded interactive content with new interactive content. However, the system disclosed in the Del Sesto reference does not disclose the more sophisticated system for testing meta-data encoded within the interactive content and possibly merging in local meta-data as claimed in the current claims. Specifically, the presently claimed system defines meta-data which includes a two-part substitution determination parameter. The two-part substitution determination parameter specifies both an evaluation type and an evaluation value. The evaluation type specifies exactly how an evaluation will be performed (relative priority comparison, string match, numerical match, etc.). The evaluation value specifies a value (a priority value, a string, a code, etc.) that will be considered according to the evaluation type that was specified. For example, claim 1 specifies that “said substitution determination parameter specifying an evaluation type and an evaluation value for determining conditions when a subset of original broadcast meta data in said data signal should be replaced;” Claim 1 then also specifies “an evaluator for evaluating the substitution determination parameter, said evaluator performing an evaluation of said evaluation type on said evaluation value with respect to a local state of said data modification device” evaluator then performs an evaluation of the specified evaluation type on the evaluation value and a local state. Referring again to claim 1, that claim requires “an evaluator for evaluating the substitution determination parameter, said evaluator performing an evaluation of said evaluation type on said evaluation value with respect to a local state of said data modification device;” All of the independent claims specify this two-part substitution determination parameter.

The system of the Del Sesto reference discloses a primitive system of evaluating the interactive content that does not anticipate nor render obvious the presently claimed system. Specifically, the Del Sesto reference discloses an interactive conditional code **303** (See **Figure 3**). The interactive conditional code **303** consists of two data values: a interaction application ID **301** and a primitive option (OPT) field **308**. There is no capability within the system of the Del Sesto reference to specify an evaluation type which specifies how an interactive broadcast server will evaluate primitive option (OPT) field **308**. In the Del Sesto reference, there is only the

simple option (OPT) field 308 itself and the only implementation of the option (OPT) field 308 disclosed in detail is a simple numerical value.

In the Final Office Action dated November 10, 2008, the examiner stated that Applicants arguments were not persuasive and rejected the claims citing the same main Del Sesto reference. In particular, the Examiner cited paragraphs [0058] and [0062] of the Del Sesto reference. Paragraphs [0058] and [0062] of the Del Sesto state:

[0058] In an alternate embodiment, an interactive conditional code 303 is provided in the video signal 601 . As discussed above, the interactive conditional code 303 comprises an OPT field 308. The OPT field 308 is set to designate whether an interactive content may be replaced. Additionally, the OPT field 308 may provide information to be interpreted locally for deciding with what content to replace the existing interactive content. For example, the OPT field 308 may have a flag that indicates the type of content being transmitted, a ticker, a contest, an advertisement, or any other type of content or whether the content should be blocked. This content type information can be used by the local subsystem to determine an action. For example, the local subsystem may prohibit advertisements within a program unless they derive revenue from the advertisement. Thus, if a flag indicates an advertisement is being transmitted within a program, the local subsystem may disable the application as discussed below. The interactive content provider typically sets the OPT field 308 of the interactive conditional code 303 to indicate that the interactive content can be replaced, however, use of the OPT field 308 also allows an interactive content provider to ensure that certain applications are not replaced or modified by a local subsystem 628. If the interactive content can be replaced, the interactive content provider sets the parameter for replacing the interactive content in the OPT field 308.

[0062] If an interactive content is present in the signal, the server 606 determines 732 whether the subsystem 628 has blocked the application. In one embodiment, the local server 606 maintains a list of those applications which are blocked by the local subsystem 628 in database 644. As shown in the example of FIG. 8, these interactive content are identified in the database 644 as being blocked for transmission. Thus, in this embodiment, the local subsystem 628 has control over whether an interactive content is provided to an end user by modifying the list maintained by the server 606. This allows local subsystems 628 to control the content of their transmissions in accordance with viewership preferences, legal issues, or the like. As discussed above, the OPT field 308 specifies the type of interactive content (for example, a contest). In this embodiment, the local interactive broadcast server 608 reads the OPT field 608 and compares the OPT field 308 with local content parameters to determine the broadcast of the application is permitted. The server 606 will look up a corresponding contest

field in its database to determine its status. For example, if prize awarding contests are illegal in a subsystem, a contest interactive content will be disabled. This embodiment also allows the local subsystem **628** to gain revenue by retaining a percentage of any revenue generated by a interactive content. For example, if an interactive content is a web site link at which an end user may make a purchase, the local subsystem **628** can require the web site host to pay the local subsystem **628** a percentage of the revenue gained in exchange for permitting the interactive content to be transmitted to the CPE **248**. In this embodiment, if no contractual arrangement has been reached with the web site host, a flag on the database **644** will indicate that the local interactive broadcast server **606** should disable the corresponding interactive content.

(Emphasis added.)

In the Final Office Action dated November 10, 2008, the examiner contents that the OPT field **308** of the Del Sesto reference alone serves as both an evaluation type and an evaluation value. (See the first full paragraph on page 3 of the Final Office Action dated November 10, 2008.) The Applicants respectfully traverse. The OPT field **308** does not specify an evaluation type that should be performed. The OPT field **308** is merely a single data value that is evaluated in a single fixed manner in the Del Sesto reference. Although multiple different outcomes can be determined by the single OPT field **308** in the Del Sesto reference, this is accomplished by simple coding. Specifically, the Examiner pointed out that the OPT field **308** can specify (1) whether or not the interactive content can be replaced; and then if it can be replaced it can specify (2) the type of interactive content transmitted (a ticker, a contest, an advertisement, etc.) such that an interactive broadcast device can use that information to decide how to replace the interactive content. However, both of these two functions can be accomplished with simple coding of a single numerical value that is evaluated in a fixed manner. For example the following simple coding system of a simple integer value accomplishes this goal:

OPT field 308	Meaning	Outcome
0	Do not modify.	Interactive content passed through unmodified
1	A Ticker	May be replaced as a ticker value
2	A Contest	Replace or remove if illegal
3	An Advertisement	May be replaced as per rules on advertisement
4	Other type	May be replaced as other type

In the presently claimed system, the system requires both “an evaluation type and an evaluation value”. These are two independent parts that serve different purposes for the evaluator of the system. Specifically, the evaluator will perform a specific type of evaluation as specified by the evaluation type. The specific type of evaluation will be performed on the evaluation value with respect to a local state. The disclosure provides three distinct different evaluation types with associated evaluation values. Specifically:

1. Paragraph [0030] discloses a priority type of evaluation that compares relative priorities values. For example, this can be done with a greater-than (“>”) integer type of comparison.
2. Paragraph [0031] discloses a region name type of evaluation that compares a region name in the evaluation value with a local region name. For example, this can be done with a character string type of evaluation. (int compare (size_t pos1, size_t n1, const string& str) const;)
3. Paragraph [0032] discloses an identifier type of evaluation that is performed with a table look-up to determine if the particular system. For example, this can be performed by looking into a look-up table that defines a set of serial numbers associated with the specific system.

With the system disclosed in the Del Sesto reference, only single fixed comparison may be performed. New codes may be added, however, the system will never be as powerful or flexible as the presently claimed system that includes both “an evaluation type and an evaluation value”. The presently claimed two-part system with both an evaluation type and an evaluation value is infinitely expandable with upgrades to the system since new evaluation types may be added as needed. For example, a new evaluation type of “Within50Miles” may be defined with an associated evaluation value of a specified latitude/longitude encoding. The interactive broadcast server may then compare a local latitude and longitude of the interactive broadcast server with the specified latitude/longitude encoding in evaluation value and perform different actions based on whether or not the interactive broadcast server is within 50 miles of the specified location. This type of new evaluation type cannot be retro-fitted into the more

primitive system of the Del Sesto reference that only allows a single OPT field **308** value to be specified and is evaluated in a fixed manner.

Since the system of the Del Sesto reference does not teach nor suggest the two-part substitution determination parameter with both an evaluation type and an evaluation value as claimed by the all of the presently pending independent claims, the Del Sesto reference does not anticipate nor render the presently claimed system obvious. Similarly, the dependent claims include all the limitations of the independent claims such that the dependent claims are likewise allowable.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4041 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 12, 2009.

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